

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Moser, Michaelann K.
Moser, Randy L.

(b) County of Residence of First Listed Plaintiff Franklin

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Anthony J. Cosentino, Esquire, DiLoreto, Cosentino & Bolinger, PC
330 Lincoln Way East, P.O. Box 866
Chambersburg, PA 17201

DEFENDANTS

Forza Transportation Services, Inc., Rivera Logistics, Inc., F&A Express, LLC, Juan Rivera, Omar A. Rivera, Roberto Perez and Roberto Perez Trucking

County of Residence of First Listed Defendant Webb County, Texas

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Jonathan Danko, Esquire

Rawle & Henderson

240 N. Third Street

Payne Shoemaker Building, 9th Floor

Harrisburg, PA 17101

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input checked="" type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S. Code 31332 - Diversity of Citizenship

Brief description of cause:
Motor vehicle accident. Diversity of Citizenship

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
In excess of \$75,000.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE
August 9, 2017

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

MICHAELANN K. MOSER and
RANDY L. MOSER,
individually and as husband and wife
1711 Barnegat Light Drive
Chambersburg, PA 17202,

Plaintiffs

vs.

CIVIL ACTION NO.
ASSIGNED TO JUDGE

FORZA TRANSPORTATION
SERVICES, INC.
3017 Okane Street
Laredo, Texas 78043-2503

RIVERA LOGISTICS, INC.
309 Collado Drive
Laredo, Texas 78045

F&A EXPRESS, LLC
14415 Mines Road
Laredo, Texas 78045

JUAN RIVERA
1802 Orange Blossom Loop
Laredo, Texas 78045

FACTS APPLICABLE TO ALL COUNTS

1. Plaintiffs, Michaelann K. Moser and Randy L. Moser, are adult individuals who reside at 1711 Barnegat Light Drive, Chambersburg, PA 17202.

2. Defendant, Forza Transportation Services, Inc. (hereinafter referred to as "Forza") is a corporation organized and existing under the laws of the state of Texas, with a principal place of business located at 3017 Okane Street, Laredo, Texas, 78043 or 8420 Las Cruces Drive, Laredo, Texas, 78045.

3. Defendant, Rivera Logistics, Inc. (hereinafter referred to as "Rivera Logistics") is a corporation organized and existing under the laws of the state of Texas, with a principal place of business located at 309 Collado Drive, Laredo, Texas, 78045.

4. Defendant, F&A Express, LLC, (hereinafter referred to as "F&A") is a corporation organized and existing under the laws of the State of Texas, with a principal place of business located at 14415 Mines Road, Laredo, Texas.

5. Defendant, Juan Rivera, is an adult individual, whose last known address is 1802 Orange Blossom Loop, Laredo, Texas, 78045.

6. Defendant, Omar A. Rivera, is an adult individual, whose last known address is 1802 Orange Blossom Loop, Laredo, Texas, 78045.

7. Defendant, Roberto Perez, is an adult individual, whose last known address is 3017 Okane Street, Laredo, TX 78043.

8. Defendant, Roberto Perez Trucking, (hereinafter referred to as "Perez Trucking"), is a corporation organized and existing under the laws of the state of Texas, with a principle place of business located at 3017 Okane Street, Laredo, TX 78043.

9. This Court has jurisdiction of this action under 28 U.S.C. §1332, Diversity of Citizenship.

10. The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interest and costs and is between citizens of different states.

11. At all times relevant herein and material hereto, Ismael C. Medina (hereinafter referred to as "Decedent Medina"), was the duly authorized agent, servant, workman, and/or employee, of Defendants, Forza Transportation Services, Inc.; Rivera Logistics, Inc.; F&A Express, LLC; Juan Rivera; Omar A. Rivera; Roberto Perez; and/or Roberto Perez Trucking, acting within the course and scope of their authority and/or for

a purpose and/or for the benefit of Defendants, Forza Transportation Services, Inc.; Rivera Logistics, Inc.; F&A Express, LLC; Juan Rivera; Omar A. Rivera; Roberto Perez; and/or Roberto Perez Trucking.

12. The facts and circumstances hereinafter set forth occurred on August 13, 2015, at approximately 7:40 a.m. on Interstate 81 North, South Middletown Township, Cumberland County, Pennsylvania.

13. Plaintiff, Michaelann K. Moser, was the owner and operator of a 2012 Chevrolet Traverse.

14. At the aforesaid time and place, Decedent, Ismael Medina, was the operator of a 2005 Freightliner Century Class (hereinafter "2005 Freightliner") bearing Texas License Plate No. R161380 which was owned by Defendants Forza, and/or Rivera Logistics; and/or F&A; and/or Juan Rivera; and/or Omar A. Rivera; and/or Roberto Perez; and/or Roberto Perez Trucking.

15. At the aforesaid time and place, the 2005 Freightliner was pulling a semi-trailer with a State of Texas Tag Number 029C091, which was owned by Defendants Roberto Perez and Roberto Perez Trucking.

16. At the aforesaid time and place, Plaintiff, Michaelann K. Moser, was traveling northbound on Interstate 81, South Middleton

Township, Cumberland County, Pennsylvania and was in the left lane (inside lane).

17. At the aforesaid time and place, Decedent Medina was also traveling northbound on Interstate 81, South Middleton Township, Cumberland County, Pennsylvania, and was also in the left lane (inside lane).

18. At the aforesaid time and place, there were six vehicles in front of Decedent, Ismael Medina, as follows:

- (a) A 2016 Mazda bearing Pennsylvania License Plate No. JTE4984 and operated by Sean Kane (Unit 2 on the Police Crash Report);
- (b) The 2006 Mazda bearing Pennsylvania License Plate No. GPY8751 and operated by Kyle Chiaverini (Unit 3 on the Police Crash Report);
- (c) A 2004 Nissan bearing Pennsylvania License Plate No. HSK1337 and operated by Justin Horst (Unit 4 on the Police Crash Report);
- (d) A 2012 Chevrolet Traverse bearing Pennsylvania License Plate No. HYC1149 and operated by Plaintiff,

Michaelann Moser (Unit 5 on the Police Crash Report);
and

(e) A 2014 Chevrolet Silverado bearing Pennsylvania License Plate No. ZGE3076, operated by James Leid and owned by Burnell Weaver (Unit 6 on the Police Crash Report).

19. At the aforesaid time and place, Decedent Medina was operating the 2005 Freightliner truck and trailer with the permission of Defendants, Forza Transportation Services, Inc.; and/or Rivera Logistics, Inc.; and/or F&A Express, LLC; and/or Juan Rivera; and/or Omar A. Rivera; and/or Roberto Perez; and/or Roberto Perez Trucking, within the scope of his authority and employment with said Defendants, which controlled and had the right to control his operation of the tractor and trailer under applicable governmental laws and regulations.

20. At the aforesaid time and place, Units 2-6 listed above were slowed or stopping in the left lane of I-81 northbound to traffic ahead of them. Decedent Medina failed to see the other vehicles slowing or stopping and rear-ended the vehicle operated by Sean Kane (Unit Two),

pushing Unit Two north and west while spinning counterclockwise into the grass median where it came to rest facing southeast.

21. At the aforesaid time and place, Decedent Medina then rear-ended the vehicle being operated by Kyle Chiaverini, and went up onto and over the vehicle operated by Chiaverini, spinning it clockwise where it came to rest in the median facing northeast.

22. Decedent Medina then rear-ended the vehicle operated by Justin Horst (Unit Four), pushing it into the rear of the vehicle being operated by Plaintiff, Michaelann K. Moser (Unit Five), pushing the Moser vehicle into the vehicle operated by James Leid (Unit Six).

23. It is believed and therefore averred that Decedent Medina was attempting to relieve himself while the tractor trailer continued to travel along the highway.

24. It is also believed and therefore averred that Decedent Medina was operating a vehicle that was or should have been taken out of service because the "left and right front brakes of the tractor were inadequate for safe stopping."

25. As a result of the collision, Plaintiff sustained injuries and damages.

26. Decedent Ismael Medina died from injuries he received in the accident on August 13, 2015.

COUNT I

**MICHAELANN K. MOSER V. FORZA TRANSPORTATION
SERVICES, INC.
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR/AGENCY**

27. Paragraphs 1 through 26 hereof are incorporated herein by reference as if fully set forth.

28. At all times relevant hereto, Decedent Medina, was an employee, servant, workman, agent, contractor and/or apparent agent of Defendant, Forza Transportation Services, Inc., and was acting within the scope of his employment with Defendant, Forza Transportation Services, Inc. either individually and/or jointly and severally, is therefore vicariously liable for his acts, commissions or omissions as though it performed the acts, commissions or omissions itself and is subject to the doctrine of respondeat superior.

29. Defendant, Forza Transportation Services, Inc. is vicariously liable for Decedent's actions and/or omissions as follows:

- (a) Tailgating the vehicles in front of him;

- (b) Failing to observe Plaintiff's vehicle and other vehicles on the roadway;
- (c) Following too closely to Sean Kane's vehicle in violation of 75 Pa.C.S.A. §3310 and applicable law;
- (d) Failing to obey traffic control devices in violation of 75 Pa. C.S.A. §3111 and applicable law;
- (e) Following too closely to Plaintiff's vehicle in violation of 75 Pa. C.S.A. §3310 and applicable law;
- (f) Failing to drive within a single lane in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (g) Moving the vehicle he was operating from his lane of travel when not safe to do so in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (h) Failing to slow or stop the vehicle he was operating so as to avoid a rear-end collision;
- (i) Failing to maintain a proper speed and stop the vehicle he was operating within the assured clear distance ahead in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (j) Driving at a speed greater than is reasonable and prudent under the conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (k) Driving at an unsafe speed with regard to the actual and potential hazards then existing in violation of 75 Pa.C.S. §3361 and applicable law;

- (l) Driving at an unsafe speed when special hazards exist with respect to traffic and highway conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (m) Failing to apply the brakes to the vehicle he was operating or take other evasive action to avoid the collision with the vehicles in front of him;
- (n) Failing to maintain adequate control of the vehicle he was operating in order to avoid a collision;
- (o) Failing to give warning of his impending collision with the vehicles in front of him;
- (p) Operating his vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa.C.S.A. §3714 and applicable law;
- (q) Operating his vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa.C.S.A. §3736 and applicable law;
- (r) Failing to keep his vehicle under proper and adequate control so as not to expose other users of the roadway to an unreasonable risk of harm;
- (s) Operating his vehicle too fast for the conditions existing at the aforesaid time and place in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (t) Failing to keep alert and maintain a proper lookout for the presence of other motor vehicles on the streets and highways;

- (u) Exceeding the applicable maximum speed limit in violation of 75 Pa.C.S.A. §3362 and applicable law;
- (v) Failing to heed and take precaution because of high volume traffic conditions;
- (w) In operating the vehicle so as to create a dangerous situation for other vehicles on the roadway;
- (x) Operating his vehicle while distracted;
- (y) Failing to maintain a safe following distance;
- (z) Failing to observe stopped traffic;
- (aa) Rearending the vehicle directly in front of him;
- (bb) Recklessly operating his vehicle;
- (cc) Failing to stay alert to traffic patterns;
- (dd) Failing to slow or stop his vehicle due to traffic conditions;
- (ee) Failing to keep his eyes on the roadway;
- (ff) Otherwise operating his vehicle at an unsafe speed and in a careless and negligent manner;
- (gg) Failing to look far enough ahead for stopped or slowing traffic;
- (hh) Failing to steer away from stopped or slowing traffic;
- (ii) Failing to be attentive to safely operate his vehicle;
- (jj) Failing to properly scan the roadway ahead;

- (kk) Operating a motor vehicle inattentively;
- (ll) Failing to properly use his brakes;
- (mm) Failing to have an adequate braking system in violation of 75 Pa. C.S. §4502 and applicable law;
- (nn) Operating his vehicle while using an interactive wireless communications device in violation of 75 Pa. C.S.A. §102 and 3316 and applicable law;
- (oo) Texting while driving in violation of 75 Pa. C.S.A. §1621 and 49 C.F.R. 392.80 and applicable law;
- (pp) Operating his vehicle while using a handheld mobile telephone in violation of 75 Pa. C.S. §1622 and 49 C.F.R. 392.82 and applicable law;
- (qq) Failing to comply with commercial driver requirements in violation of §1601, et seq. and applicable law;
- (rr) Failing to have an adequate brake system in violation of 75 Pa. C.S.A. §4502 and applicable law;
- (ss) Violating equipment standards in violation of 75 Pa. C.S.A. §4107 and applicable law;
- (tt) Attempting to relieve his bladder and/or bowels while driving;
- (uu) Attempting to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (vv) In failing to operate his vehicle with a higher standard of care as required by a commercial driver;

- (ww) Operating his vehicle at an unsafe speed in violation of Part 392.6 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations;
- (xx) Failing to comply with the operating rules of Pennsylvania or of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations in violation of 49 CFR §392.2;
- (yy) Operating his vehicle unsafely under hazardous conditions in violation of 49 CFR §392.14;
- (zz) Driving the Freightliner when not qualified to do so in violation of 49 CFR §391.11;
- (aaa) Failing to have the knowledge and skills necessary to operate the Freightliner safely in violation of 49 CFR §383.110; 49 CFR §383.111(a), (b), (c); and 49 CFR §383.113;
- (bbb) Failing to have an adequate brake system on the Freightliner in violation of 49 C.F.R. §393.40, §393.47, §393.48 and §393.52-55;
- (ccc) Failing to properly maintain and inspect the tractor trailer to ensure it was in a safe operating condition in violation of 49 CFR §392.7 and 396.13;
- (ddd) Driving while distracted;
- (eee) Failing to properly inspect the freightliner to make sure that all parts, including the brakes were in good working order pursuant to 49 C.F.R. §392.7 and applicable law;
- (fff) Failing to take the necessary rest stops and abide by the hours of service requirements in violation of 49 C.F.R. §395.1, et seq.;

- (ggg) Failing to properly restrain himself and use his seatbelt in violation of 49 C.F.R. §392.16;
- (hhh) Operating the vehicle while ill or in a condition wherein he could not safely operate the vehicle in violation of 49 C.F.R. §392.3 and applicable law;
- (iii) Operating a vehicle when not physically qualified to do so in violation of 49 C.F.R. §391.41.

30. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained and in the future may sustain, serious and debilitating injuries, some of which are or may be permanent, may be an aggravation and/or exacerbation of pre-existing conditions, and which include, but are not limited to, the following:

- (a) Cervical disc herniation at C3-C4;
- (b) Thoracic disc herniation/protrusion at T8-T9;
- (c) Lumbar disc herniation/extrusion at L3-L4;
- (d) Compression fracture of T1;
- (e) Traumatic brain injury;
- (f) Closed head injury;
- (g) Post concussion syndrome;
- (h) Cervical strain/sprain;
- (i) Thoracic strain/sprain;
- (j) Lumbar strain/sprain; and
- (k) Nervous shock.

31. As a direct and proximate result of the aforesaid collision and the negligent, careless and reckless conduct of Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, has undergone and in the future will undergo physical pain, mental anguish, discomfort, inconvenience, distress, embarrassment and humiliation, past, present and future loss of his ability to enjoy the pleasures of life and limitations in her pursuit of daily activities for which damages are claimed.

32. As a direct and proximate result of the aforesaid collision and the negligent, careless and reckless conduct of Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, has and/or may in the future incur expenses for medical treatment, surgery/or and rehabilitation for which damages are claimed.

33. As a direct and proximate result of the aforesaid collision and the negligent, careless and reckless conduct of Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, has and/or may in the future incur a loss of income, a loss of future earning capacity, loss of future

productivity, loss of household services, and other economic damages for which damages are claimed.

34. As a direct and proximate result of the aforesaid collision and the negligent, careless and reckless conduct of Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, has and/or may in the future incur a loss of household services and other economic damages for which damages are claimed.

35. As a direct and proximate result of the aforesaid collision and the negligent, careless and reckless conduct of Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, has sustained, or in the future may sustain, scarring and/or disfigurement for which damages are claimed.

36. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Forza Transportation Services, Inc. and/or their agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others

entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT II

MICHAELANN K. MOSER V. FORZA TRANSPORTATION SERVICES, INC. NEGLIGENCE

37. Paragraphs 1 through 36 hereof are incorporated herein by reference as if fully set forth.

38. In addition to being vicariously liable for the acts, commissions or omissions of its employee, servant, workman, agent, contractor and/or apparent agent, Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, was also negligent, reckless and careless as follows:

- (a) Failing to properly train its employees, servants, workmen, agents, contractors and/or apparent agents in the operation of its vehicles;
- (b) Failing to provide its employees, servants, workmen, agents, contractors and/or apparent agents with proper directions before allowing them to operate its vehicles;
- (c) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents are familiar with the roadways and route of travel before allowing them to operate its vehicles;
- (d) Failing to properly supervise or control its employees, servants, workmen, agents, contractors and/or apparent agents while they are operating its vehicles;
- (e) Hiring and/or retaining employees, servants, workmen, agents, contractors and/or apparent agents who may be unfit or incompetent to operate its vehicles;
- (f) Failing to have in place proper procedures, rules, regulations, protocols or safety measures to ensure that other motorists are not endangered by the operation of its vehicles by its employees, servants, workmen, agents, contractors and/or apparent agents;
- (g) Sending out its employees, servants, workmen, agents, contractors and/or apparent agents for an errand or job without proper instructions, directions and guidance;
- (h) Failing to take proper precautions to protect Plaintiff and other lawful users of the roadway from the negligent and careless actions of its employees, servants, workmen, agents, contractors and/or apparent agents;

- (i) Allowing an employee, servant, workman, agent, contractor and/or apparent agent to drive its vehicle who is incompetent to do so due to lack of training, licensing and/or prior unsafe driving;
- (j) Failing to use a high degree of care as a commercial carrier in the operation of its vehicle;
- (k) Failing to enforce its employee manuals and/or training procedures;
- (l) Failing to have an adequate or properly maintained brake system on the Freightliner in violation of 49 C.F.R. §393.40; 49 C.F.R. §393.47; 49 C.F.R. §393.48, 49 C.F.R. §393.52-55; 75 Pa. C.S.A. §4502; and 75 Pa. C.S.A. §4107;
- (m) Having commercial vehicle operators who do not have the required knowledge or skill to safely operate its vehicles in violation of 49 C.F.R. §383.111-383.13;
- (n) Allowing a driver to operate its vehicle who is not physically qualified to do so in violation of 49 C.F.R. §391.41 and applicable law;
- (o) Failing to enforce both the written and unwritten policies of Forza Transportation Services, Inc.;
- (p) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while texting in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.80;
- (q) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a hand-held mobile telephone in violation of Part 392 of the U.S. Department of Transportation Federal Motor

Carrier Safety Regulation, in particular 49 CFR §392.82;

- (r) Allowing its employee, servant, workman and/or agent to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (s) Failing to instruct their employee, servant, workman and/or agent to not leave the driver's seat while the vehicle was moving;
- (t) Allowing its employee, servant, workman and/or agent to recklessly drive its vehicle;
- (u) Allowing its employee, servant, workman and/or agent to operate its vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa. C.S. §3714 and applicable law;
- (v) Allowing its employee, servant, workman and/or agent to operate its vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa. C.S.A. §3736 and applicable law;
- (w) Allowing an employee, servant, workman and/or agent to text while driving in violation of 75 Pa. C.S.A. §1621 and applicable law;
- (x) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a handheld mobile telephone in violation of 75 Pa. C.S.A. §1622 and applicable law;
- (y) Failing to instruct their employee, servant, workman and/or agent to not attempt to relieve his bowels and/or bladder while operating its vehicle;

- (z) Allowing its employee, servant, workman and/or agent to operate its vehicle unsafely under hazardous conditions in violation of 49 C.F.R. §392.14;
- (aa) Allowing its employee, servant, workman and/or agent to operate its vehicle while distracted;
- (bb) Failing to instruct its employee, servant, workman and/or agent to not operate the vehicle while distracted;
- (cc) Allowing its employee, servant, workman and/or agent to operate its vehicle without properly restraining himself and not using his seatbelt in violation of 49 C.F.R. §392.16;
- (dd) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the written and unwritten policies of Forza Transportation Services, Inc.;
- (ee) Failing to ensure that its management personnel and drivers were aware of the requirements and the dictates of the Federal Motor Carrier Safety Regulations and the Pennsylvania Motor Vehicle Code;
- (ff) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents complied with the provisions of both the Pennsylvania Motor Vehicle Code and the Federal Motor Carrier Safety Regulations;
- (gg) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the rules, laws and regulations pertaining to and governing the operation of commercial vehicles;

- (hh) Negligently entrusting a motor vehicle to an individual who had not been properly trained in the operation of its motor vehicle;
- (ii) Recklessly entrusting a motor vehicle to an individual who was unfit to operate the vehicle;
- (jj) Failing to properly inspect and maintain its vehicles in violation of 49 C.F.R. §392.7, §396.3 and §396.17;
- (kk) Allowing its drivers to violate hours of service requirements in violation of 49 C.F.R. §395.1, et seq.
- (ll) Allowing its driver to operate an out of service vehicle.

39. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

40. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Forza Transportation Services, Inc. and/or their agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others

entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT III
MICHAELANN K. MOSER V. RIVERA LOGISTICS, INC.
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR/AGENCY

41. Paragraphs 1 through 40 hereof are incorporated herein by reference as if fully set forth.

42. At all times relevant hereto, Decedent Medina, was an employee, servant, workman, agent, contractor and/or apparent agent of Defendant, Rivera Logistics, Inc., and was acting within the scope of his employment with Defendant, Rivera Logistics, Inc. either individually and/or jointly and severally, is therefore vicariously liable for his acts,

commissions or omissions as though it performed the acts, commissions or omissions itself and is subject to the doctrine of respondeat superior.

43. Defendant, Rivera Logistics, Inc. is vicariously liable for Decedent's actions and/or omissions as follows:

- (a) Tailgating the vehicles in front of him;
- (b) Failing to observe Plaintiff's vehicle and other vehicles on the roadway;
- (c) Following too closely to Sean Kane's vehicle in violation of 75 Pa.C.S.A. §3310 and applicable law;
- (d) Failing to obey traffic control devices in violation of 75 Pa. C.S.A. §3111 and applicable law;
- (e) Following too close to Plaintiff's vehicle in violation of 75 Pa. C.S.A. §3310 and applicable law;
- (f) Failing to drive within a single lane in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (g) Moving the vehicle he was operating from his lane of travel when not safe to do so in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (h) Failing to slow or stop the vehicle he was operating so as to avoid a rear-end collision;
- (i) Failing to maintain a proper speed and stop the vehicle he was operating within the assured clear distance ahead in violation of 75 Pa.C.S.A. §3361 and applicable law;

- (j) Driving at a speed greater than is reasonable and prudent under the conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (k) Driving at an unsafe speed with regard to the actual and potential hazards then existing in violation of 75 Pa.C.S. §3361 and applicable law;
- (l) Driving at an unsafe speed when special hazards exist with respect to traffic and highway conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (m) Failing to apply the brakes to the vehicle he was operating or take other evasive action to avoid the collision with the vehicles in front of him;
- (n) Failing to maintain adequate control of the vehicle he was operating in order to avoid a collision;
- (o) Failing to give warning of his impending collision with the vehicles in front of him;
- (p) Operating his vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa.C.S.A. §3714 and applicable law;
- (q) Operating his vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa.C.S.A. §3736 and applicable law;
- (r) Failing to keep his vehicle under proper and adequate control so as not to expose other users of the roadway to an unreasonable risk of harm;

- (s) Operating his vehicle too fast for the conditions existing at the aforesaid time and place in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (t) Failing to keep alert and maintain a proper lookout for the presence of other motor vehicles on the streets and highways;
- (u) Exceeding the applicable maximum speed limit in violation of 75 Pa.C.S.A. §3362 and applicable law;
- (v) Failing to heed and take precaution because of high volume traffic conditions;
- (w) In operating the vehicle so as to create a dangerous situation for other vehicles on the roadway;
- (x) Operating his vehicle while distracted;
- (y) Failing to maintain a safe following distance;
- (z) Failing to observe stopped traffic;
- (aa) Rearending the vehicle in front of him;
- (bb) Recklessly operating his vehicle;
- (cc) Failing to stay alert to traffic patterns;
- (dd) Failing to slow or stop his vehicle due to traffic conditions;
- (ee) Failing to keep his eyes on the roadway;
- (ff) Otherwise operating his vehicle at an unsafe speed and in a careless and negligent manner;

- (gg) Failing to look far enough ahead for stopped or slowing traffic;
- (hh) Failing to steer away from stopped or slowing traffic;
- (ii) Failing to be attentive to safely operate his vehicle;
- (jj) Failing to properly scan the roadway ahead;
- (kk) Operating a motor vehicle inattentively;
- (ll) Failing to properly use his brakes;
- (mm) Failing to have an adequate braking system in violation of 75 Pa. C.S. §4502 and applicable law;
- (nn) Operating his vehicle while using an interactive wireless communications device in violation of 75 Pa. C.S.A. §102 and 3316 and applicable law;
- (oo) Texting while driving in violation of 75 Pa. C.S.A. §1621 and 49 C.F.R. 392.80 and applicable law;
- (pp) Operating his vehicle while using a handheld mobile telephone in violation of 75 Pa. C.S. §1622 and 49 C.F.R. 392.82 and applicable law;
- (qq) Failing to comply with commercial driver requirements in violation of §1601, et seq. and applicable law;
- (rr) Failing to have an adequate brake system in violation of 75 Pa. C.S.A. §4502 and applicable law;
- (ss) Violating equipment standards in violation of 75 Pa. C.S.A. §4107 and applicable law;

- (tt) Attempting to relieve his bladder and/or bowels while driving;
- (uu) Attempting to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (vv) In failing to operate his vehicle with a higher standard of care as required by a commercial driver;
- (ww) Operating his vehicle at an unsafe speed in violation of Part 392.6 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations;
- (xx) Failing to comply with the operating rules of Pennsylvania or of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations in violation of 49 CFR §392.2;
- (yy) Operating his vehicle unsafely under hazardous conditions in violation of 49 CFR §392.14;
- (zz) Driving the Freightliner when not qualified to do so in violation of 49 CFR §391.11;
- (aaa) Failing to have the knowledge and skills necessary to operate the Freightliner safely in violation of 49 CFR §383.110; 49 CFR §383.111(a), (b), (c); and 49 CFR §383.113;
- (bbb) Failing to have an adequate brake system on the Freightliner in violation of 49 C.F.R. §393.40, §393.47, §393.48 and §393.52-55;
- (ccc) Failing to properly maintain and inspect the tractor trailer to ensure it was in a safe operating condition in violation of 49 CFR §392.7 and 396.13;
- (ddd) Driving while distracted;

- (eee) Failing to properly inspect the freightliner to make sure that all parts, including the brakes were in good working order pursuant to 49 C.F.R. §392.7 and applicable law;
- (fff) Failing to take the necessary rest stops and abide by the hours of service requirements in violation of 49 C.F.R. §395.1, et seq.;
- (ggg) Failing to properly restrain himself and use his seatbelt in violation of 49 C.F.R. §392.16;
- (hhh) Operating the vehicle while ill or in a condition wherein he could not safely operate the vehicle in violation of 49 C.F.R. §392.3 and applicable law;
- (iii) Operating a vehicle when not physically qualified to do so in violation of 49 C.F.R. §391.41.

44. As a result of the aforesaid negligence, recklessness and carelessness of Defendant, Rivera Logistics, Inc., either individually and/or jointly and severally, Plaintiff, Michael K. Moser, sustained the aforesaid damages.

45. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Rivera Logistics, Inc. and/or their agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michael K. Moser and others entitling Plaintiff to an award of

punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michael K. Moser, demands judgment in her favor and against the Defendant, Rivera Logistics, Inc., either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT IV
MICHAELANN K. MOSER V. RIVERA LOGISTICS, INC.
NEGLIGENCE

46. Paragraphs 1 through 45 hereof are incorporated herein by reference as if fully set forth.

47. In addition to being vicariously liable for the acts, commissions or omissions of its employee, servant, workman, agent, contractor and/or apparent agent, Defendant, Rivera Logistics, Inc., either individually and/or jointly and severally, was also negligent, reckless and careless as follows:

- (a) Failing to properly train its employees, servants, workmen, agents, contractors and/or apparent agents in the operation of its vehicles;
- (b) Failing to provide its employees, servants, workmen, agents, contractors and/or apparent agents with proper directions before allowing them to operate its vehicles;
- (c) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents are familiar with the roadways and route of travel before allowing them to operate its vehicles;
- (d) Failing to properly supervise or control its employees, servants, workmen, agents, contractors and/or apparent agents while they are operating its vehicles;
- (e) Hiring and/or retaining employees, servants, workmen, agents, contractors and/or apparent agents who may be unfit or incompetent to operate its vehicles;
- (f) Failing to have in place proper procedures, rules, regulations, protocols or safety measures to ensure that other motorists are not endangered by the operation of its vehicles by its employees, servants, workmen, agents, contractors and/or apparent agents;
- (g) Sending out its employees, servants, workmen, agents, contractors and/or apparent agents for an errand or job without proper instructions, directions and guidance;
- (h) Failing to take proper precautions to protect Plaintiff and other lawful users of the roadway from the negligent and careless actions of its employees, servants, workmen, agents, contractors and/or apparent agents;

- (i) Allowing an employee, servant, workman, agent, contractor and/or apparent agent to drive its vehicle who is incompetent to do so due to lack of training, licensing and/or prior unsafe driving;
- (j) Failing to use a high degree of care as a commercial carrier in the operation of its vehicle;
- (k) Failing to enforce its employee manuals and/or training procedures;
- (l) Failing to have an adequate or properly maintained brake system on the Freightliner in violation of 49 C.F.R. §393.40; 49 C.F.R. §393.47; 49 C.F.R. §393.48, 49 C.F.R. §393.52-55; 75 Pa. C.S.A. §4502; and 75 Pa. C.S.A. §4107;
- (m) Having commercial vehicle operators who do not have the required knowledge or skill to safely operate its vehicles in violation of 49 C.F.R. §383.111-383.13;
- (n) Allowing a driver to operate its vehicle who is not physically qualified to do so in violation of 49 C.F.R. §391.41 and applicable law;
- (o) Failing to enforce both the written and unwritten policies of Rivera Logistics, Inc.;
- (p) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while texting in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.80;
- (q) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a hand-held mobile telephone in violation of Part 392 of the U.S. Department of Transportation Federal Motor

Carrier Safety Regulation, in particular 49 CFR §392.82;

- (r) Allowing its employee, servant, workman and/or agent to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (s) Failing to instruct their employee, servant, workman and/or agent to not leave the driver's seat while the vehicle was moving;
- (t) Allowing its employee, servant, workman and/or agent to recklessly drive its vehicle;
- (u) Allowing its employee, servant, workman and/or agent to operate its vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa. C.S. §3714 and applicable law;
- (v) Allowing its employee, servant, workman and/or agent to operate its vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa. C.S.A. §3736 and applicable law;
- (w) Allowing an employee, servant, workman and/or agent to text while driving in violation of 75 Pa. C.S.A. §1621 and applicable law;
- (x) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a handheld mobile telephone in violation of 75 Pa. C.S.A. §1622 and applicable law;
- (y) Failing to instruct their employee, servant, workman and/or agent to not attempt to relieve his bowels and/or bladder while operating its vehicle;

- (z) Allowing its employee, servant, workman and/or agent to operate its vehicle unsafely under hazardous conditions in violation of 49 C.F.R. §392.14;
- (aa) Allowing its employee, servant, workman and/or agent to operate its vehicle while distracted;
- (bb) Failing to instruct its employee, servant, workman and/or agent to not operate the vehicle while distracted;
- (cc) Allowing its employee, servant, workman and/or agent to operate its vehicle without properly restraining himself and not using his seatbelt in violation of 49 C.F.R. §392.16;
- (dd) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the written and unwritten policies of Rivera Logistics, Inc.;
- (ee) Failing to ensure that its management personnel and drivers were aware of the requirements and the dictates of the Federal Motor Carrier Safety Regulations and the Pennsylvania Motor Vehicle Code;
- (ff) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents complied with the provisions of both the Pennsylvania Motor Vehicle Code and the Federal Motor Carrier Safety Regulations;
- (gg) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the rules, laws and regulations pertaining to and governing the operation of commercial vehicles;

- (hh) Negligently entrusting a motor vehicle to an individual who had not been properly trained in the operation of its motor vehicle;
- (ii) Recklessly entrusting a motor vehicle to an individual who was unfit to operate the vehicle;
- (jj) Failing to properly inspect and maintain its vehicles in violation of 49 C.F.R. §392.7, §396.3 and §396.17;
- (kk) Allowing its drivers to violate hours of service requirements in violation of 49 C.F.R. §395.1, et seq.
- (ll) Allowing its driver to operate an out of service vehicle.

48. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Rivera Logistics, Inc., either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

49. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Rivera Logistics, Inc. and/or their agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Rivera Logistics, Inc., either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT V
MICHAELANN K. MOSER V. F&A EXPRESS, LLC
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR/AGENCY

50. Paragraphs 1 through 49 hereof are incorporated herein by reference as if fully set forth.

51. At all times relevant hereto, Decedent Medina, was an employee, servant, workman, agent, contractor and/or apparent agent of Defendant, F&A Express, LLC, and was acting within the scope of his employment with Defendant, F&A Express, LLC, either individually and/or jointly and severally, is therefore vicariously liable for his acts, commissions or omissions as though it performed the acts, commissions or omissions itself and is subject to the doctrine of respondeat superior.

52. Defendant, F&A Express, LLC, is vicariously liable for Decedent's actions and/or omissions as follows:

- (a) Tailgating the vehicles in front of him;
- (b) Failing to observe Plaintiff's vehicle and other vehicles on the roadway;
- (c) Following too closely to Sean Kane's vehicle in violation of 75 Pa.C.S.A. §3310 and applicable law;
- (d) Failing to obey traffic control devices in violation of 75 Pa. C.S.A. §3111 and applicable law;
- (e) Following too close to Plaintiff's vehicle in violation of 75 Pa. C.S.A. §3310 and applicable law;
- (f) Failing to drive within a single lane in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (g) Moving the vehicle he was operating from his lane of travel when not safe to do so in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (h) Failing to slow or stop the vehicle he was operating so as to avoid a rear-end collision;
- (i) Failing to maintain a proper speed and stop the vehicle he was operating within the assured clear distance ahead in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (j) Driving at a speed greater than is reasonable and prudent under the conditions in violation of 75 Pa.C.S. §3361 and applicable law;

- (k) Driving at an unsafe speed with regard to the actual and potential hazards then existing in violation of 75 Pa.C.S. §3361 and applicable law;
- (l) Driving at an unsafe speed when special hazards exist with respect to traffic and highway conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (m) Failing to apply the brakes to the vehicle he was operating or take other evasive action to avoid the collision with the vehicles in front of him;
- (n) Failing to maintain adequate control of the vehicle he was operating in order to avoid a collision;
- (o) Failing to give warning of his impending collision with the vehicles in front of him;
- (p) Operating his vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa.C.S.A. §3714 and applicable law;
- (q) Operating his vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa.C.S.A. §3736 and applicable law;
- (r) Failing to keep his vehicle under proper and adequate control so as not to expose other users of the roadway to an unreasonable risk of harm;
- (s) Operating his vehicle too fast for the conditions existing at the aforesaid time and place in violation of 75 Pa.C.S.A. §3361 and applicable law;

- (t) Failing to keep alert and maintain a proper lookout for the presence of other motor vehicles on the streets and highways;
- (u) Exceeding the applicable maximum speed limit in violation of 75 Pa.C.S.A. §3362 and applicable law;
- (v) Failing to heed and take precaution because of high volume traffic conditions;
- (w) In operating the vehicle so as to create a dangerous situation for other vehicles on the roadway;
- (x) Operating his vehicle while distracted;
- (y) Failing to maintain a safe following distance;
- (z) Failing to observe stopped traffic;
- (aa) Rearending the vehicle directly in front of him;
- (bb) Recklessly operating his vehicle;
- (cc) Failing to stay alert to traffic patterns;
- (dd) Failing to slow or stop his vehicle due to traffic conditions;
- (ee) Failing to keep his eyes on the roadway;
- (ff) Otherwise operating his vehicle at an unsafe speed and in a careless and negligent manner;
- (gg) Failing to look far enough ahead for stopped or slowing traffic;
- (hh) Failing to steer away from stopped or slowing traffic;

- (ii) Failing to be attentive to safely operate his vehicle;
- (jj) Failing to properly scan the roadway ahead;
- (kk) Operating a motor vehicle inattentively;
- (ll) Failing to properly use his brakes;
- (mm) Failing to have an adequate braking system in violation of 75 Pa. C.S. §4502 and applicable law;
- (nn) Operating his vehicle while using an interactive wireless communications device in violation of 75 Pa. C.S.A. §102 and 3316 and applicable law;
- (oo) Texting while driving in violation of 75 Pa. C.S.A. §1621 and 49 C.F.R. 392.80 and applicable law;
- (pp) Operating his vehicle while using a handheld mobile telephone in violation of 75 Pa. C.S. §1622 and 49 C.F.R. 392.82 and applicable law;
- (qq) Failing to comply with commercial driver requirements in violation of §1601, et seq. and applicable law;
- (rr) Failing to have an adequate brake system in violation of 75 Pa. C.S.A. §4502 and applicable law;
- (ss) Violating equipment standards in violation of 75 Pa. C.S.A. §4107 and applicable law;
- (tt) Attempting to relieve his bladder and/or bowels while driving;
- (uu) Attempting to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;

- (vv) In failing to operate his vehicle with a higher standard of care as required by a commercial driver;
- (ww) Operating his vehicle at an unsafe speed in violation of Part 392.6 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations;
- (xx) Failing to comply with the operating rules of Pennsylvania or of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations in violation of 49 CFR §392.2;
- (yy) Operating his vehicle unsafely under hazardous conditions in violation of 49 CFR §392.14;
- (zz) Driving the Freightliner when not qualified to do so in violation of 49 CFR §391.11;
- (aaa) Failing to have the knowledge and skills necessary to operate the Freightliner safely in violation of 49 CFR §383.110; 49 CFR §383.111(a), (b), (c); and 49 CFR §383.113;
- (bbb) Failing to have an adequate brake system on the Freightliner in violation of 49 C.F.R. §393.40, §393.47, §393.48 and §393.52-55;
- (ccc) Failing to properly maintain and inspect the tractor trailer to ensure it was in a safe operating condition in violation of 49 CFR §392.7 and 396.13;
- (ddd) Driving while distracted;
- (eee) Failing to properly inspect the freightliner to make sure that all parts, including the brakes were in good working order pursuant to 49 C.F.R. §392.7 and applicable law;

- (fff) Failing to take the necessary rest stops and abide by the hours of service requirements in violation of 49 C.F.R. §395.1, et seq.;
- (ggg) Failing to properly restrain himself and use his seatbelt in violation of 49 C.F.R. §392.16;
- (hhh) Operating the vehicle while ill or in a condition wherein he could not safely operate the vehicle in violation of 49 C.F.R. §392.3 and applicable law;
- (iii) Operating a vehicle when not physically qualified to do so in violation of 49 C.F.R. §391.41.

53. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, F&A Express, LLC, either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

54. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, F&A Express, LLC, and/or their agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, F&A Express, LLC, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT VI
MICHEALANN K. MOSER V. F&A EXPRESS, LLC
NEGLIGENCE

55. Paragraphs 1 through 54 hereof are incorporated herein by reference as if fully set forth.

56. In addition to being vicariously liable for the acts, commissions or omissions of its employee, servant, workman, agent, contractor and/or apparent agent, Defendant, F&A Express, LLC, either individually and/or jointly and severally, was also negligent, reckless and careless as follows:

- (a) Failing to properly train its employees, servants, workmen, agents, contractors and/or apparent agents in the operation of its vehicles;

- (b) Failing to provide its employees, servants, workmen, agents, contractors and/or apparent agents with proper directions before allowing them to operate its vehicles;
- (c) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents are familiar with the roadways and route of travel before allowing them to operate its vehicles;
- (d) Failing to properly supervise or control its employees, servants, workmen, agents, contractors and/or apparent agents while they are operating its vehicles;
- (e) Hiring and/or retaining employees, servants, workmen, agents, contractors and/or apparent agents who may be unfit or incompetent to operate its vehicles;
- (f) Failing to have in place proper procedures, rules, regulations, protocols or safety measures to ensure that other motorists are not endangered by the operation of its vehicles by its employees, servants, workmen, agents, contractors and/or apparent agents;
- (g) Sending out its employees, servants, workmen, agents, contractors and/or apparent agents for an errand or job without proper instructions, directions and guidance;
- (h) Failing to take proper precautions to protect Plaintiff and other lawful users of the roadway from the negligent and careless actions of its employees, servants, workmen, agents, contractors and/or apparent agents;
- (i) Allowing an employee, servant, workman, agent, contractor and/or apparent agent to drive its vehicle who is incompetent to do so due to lack of training, licensing and/or prior unsafe driving;

- (j) Failing to use a high degree of care as a commercial carrier in the operation of its vehicle;
- (k) Failing to enforce its employee manuals and/or training procedures;
- (l) Failing to have an adequate or properly maintained brake system on the Freightliner in violation of 49 C.F.R. §393.40; 49 C.F.R. §393.47; 49 C.F.R. §393.48, 49 C.F.R. §393.52-55; 75 Pa. C.S.A. §4502; and 75 Pa. C.S.A. §4107;
- (m) Having commercial vehicle operators who do not have the required knowledge or skill to safely operate its vehicles in violation of 49 C.F.R. §383.111-383.13;
- (n) Allowing a driver to operate its vehicle who is not physically qualified to do so in violation of 49 C.F.R. §391.41 and applicable law;
- (o) Failing to enforce both the written and unwritten policies of F&A Express, LLC;
- (p) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while texting in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.80;
- (q) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a hand-held mobile telephone in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.82;

- (r) Allowing its employee, servant, workman and/or agent to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (s) Failing to instruct their employee, servant, workman and/or agent to not leave the driver's seat while the vehicle was moving;
- (t) Allowing its employee, servant, workman and/or agent to recklessly drive its vehicle;
- (u) Allowing its employee, servant, workman and/or agent to operate its vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa. C.S. §3714 and applicable law;
- (v) Allowing its employee, servant, workman and/or agent to operate its vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa. C.S.A. §3736 and applicable law;
- (w) Allowing an employee, servant, workman and/or agent to text while driving in violation of 75 Pa. C.S.A. §1621 and applicable law;
- (x) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a handheld mobile telephone in violation of 75 Pa. C.S.A. §1622 and applicable law;
- (y) Failing to instruct their employee, servant, workman and/or agent to not attempt to relieve his bowels and/or bladder while operating its vehicle;
- (z) Allowing its employee, servant, workman and/or agent to operate its vehicle unsafely under hazardous conditions in violation of 49 C.F.R. §392.14;

- (aa) Allowing its employee, servant, workman and/or agent to operate its vehicle while distracted;
- (bb) Failing to instruct its employee, servant, workman and/or agent to not operate the vehicle while distracted;
- (cc) Allowing its employee, servant, workman and/or agent to operate its vehicle without properly restraining himself and not using his seatbelt in violation of 49 C.F.R. §392.16;
- (dd) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the written and unwritten policies of F&A Express, LLC;
- (ee) Failing to ensure that its management personnel and drivers were aware of the requirements and the dictates of the Federal Motor Carrier Safety Regulations and the Pennsylvania Motor Vehicle Code;
- (ff) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents complied with the provisions of both the Pennsylvania Motor Vehicle Code and the Federal Motor Carrier Safety Regulations;
- (gg) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the rules, laws and regulations pertaining to and governing the operation of commercial vehicles;
- (hh) Negligently entrusting a motor vehicle to an individual who had not been properly trained in the operation of its motor vehicle;

- (ii) Recklessly entrusting a motor vehicle to an individual who was unfit to operate the vehicle;
- (jj) Failing to properly inspect and maintain its vehicles in violation of 49 C.F.R. §392.7, §396.3 and §396.17;
- (kk) Allowing its drivers to violate hours of service requirements in violation of 49 C.F.R. §395.1, et seq.
- (ll) Allowing its driver to operate an out of service vehicle.

57. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, F&A Express, LLC, either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

58. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, F&A Express, LLC and/or their agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, F&A Express, LLC, either

individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT VII
MICHAELANN K. MOSER V. JUAN RIVERA
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR/AGENCY

59. Paragraphs 1 through 58 hereof are incorporated herein by reference as if fully set forth.

60. At all times relevant hereto, Decedent Medina, was an employee, servant, workman, agent, contractor and/or apparent agent of Defendant, Juan Rivera, and was acting within the scope of his employment with Defendant, Juan Rivera either individually and/or jointly and severally, is therefore vicariously liable for his acts, commissions or omissions as though it performed the acts, commissions or omissions itself and is subject to the doctrine of respondeat superior.

61. Defendant, Juan Rivera, is vicariously liable for Decedent's actions and/or omissions as follows:

- (a) Tailgating the vehicles in front of him;

- (b) Failing to observe Plaintiff's vehicle and other vehicles on the roadway;
- (c) Following too closely to Sean Kane's vehicle in violation of 75 Pa.C.S.A. §3310 and applicable law;
- (d) Failing to obey traffic control devices in violation of 75 Pa. C.S.A. §3111 and applicable law;
- (e) Following too closely to Plaintiff's vehicle in violation of 75 Pa. C.S.A. §3310 and applicable law;
- (f) Failing to drive within a single lane in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (g) Moving the vehicle he was operating from his lane of travel when not safe to do so in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (h) Failing to slow or stop the vehicle he was operating so as to avoid a rear-end collision;
- (i) Failing to maintain a proper speed and stop the vehicle he was operating within the assured clear distance ahead in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (j) Driving at a speed greater than is reasonable and prudent under the conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (k) Driving at an unsafe speed with regard to the actual and potential hazards then existing in violation of 75 Pa.C.S. §3361 and applicable law;

- (l) Driving at an unsafe speed when special hazards exist with respect to traffic and highway conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (m) Failing to apply the brakes to the vehicle he was operating or take other evasive action to avoid the collision with the vehicles in front of him;
- (n) Failing to maintain adequate control of the vehicle he was operating in order to avoid a collision;
- (o) Failing to give warning of his impending collision with the vehicles in front of him;
- (p) Operating his vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa.C.S.A. §3714 and applicable law;
- (q) Operating his vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa.C.S.A. §3736 and applicable law;
- (r) Failing to keep his vehicle under proper and adequate control so as not to expose other users of the roadway to an unreasonable risk of harm;
- (s) Operating his vehicle too fast for the conditions existing at the aforesaid time and place in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (t) Failing to keep alert and maintain a proper lookout for the presence of other motor vehicles on the streets and highways;

- (u) Exceeding the applicable maximum speed limit in violation of 75 Pa.C.S.A. §3362 and applicable law;
- (v) Failing to heed and take precaution because of high volume traffic conditions;
- (w) In operating the vehicle so as to create a dangerous situation for other vehicles on the roadway;
- (x) Operating his vehicle while distracted;
- (y) Failing to maintain a safe following distance;
- (z) Failing to observe stopped traffic;
- (aa) Rearending the vehicle directly in front of him;
- (bb) Recklessly operating his vehicle;
- (cc) Failing to stay alert to traffic patterns;
- (dd) Failing to slow or stop his vehicle due to traffic conditions;
- (ee) Failing to keep his eyes on the roadway;
- (ff) Otherwise operating his vehicle at an unsafe speed and in a careless and negligent manner;
- (gg) Failing to look far enough ahead for stopped or slowing traffic;
- (hh) Failing to steer away from stopped or slowing traffic;
- (ii) Failing to be attentive to safely operate his vehicle;
- (jj) Failing to properly scan the roadway ahead;

- (kk) Operating a motor vehicle inattentively;
- (ll) Failing to properly use his brakes;
- (mm) Failing to have an adequate braking system in violation of 75 Pa. C.S. §4502 and applicable law;
- (nn) Operating his vehicle while using an interactive wireless communications device in violation of 75 Pa. C.S.A. §102 and 3316 and applicable law;
- (oo) Texting while driving in violation of 75 Pa. C.S.A. §1621 and 49 C.F.R. 392.80 and applicable law;
- (pp) Operating his vehicle while using a handheld mobile telephone in violation of 75 Pa. C.S. §1622 and 49 C.F.R. 392.82 and applicable law;
- (qq) Failing to comply with commercial driver requirements in violation of §1601, et seq. and applicable law;
- (rr) Failing to have an adequate brake system in violation of 75 Pa. C.S.A. §4502 and applicable law;
- (ss) Violating equipment standards in violation of 75 Pa. C.S.A. §4107 and applicable law;
- (tt) Attempting to relieve his bladder and/or bowels while driving;
- (uu) Attempting to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (vv) In failing to operate his vehicle with a higher standard of care as required by a commercial driver;

- (ww) Operating his vehicle at an unsafe speed in violation of Part 392.6 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations;
- (xx) Failing to comply with the operating rules of Pennsylvania or of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations in violation of 49 CFR §392.2;
- (yy) Operating his vehicle unsafely under hazardous conditions in violation of 49 CFR §392.14;
- (zz) Driving the Freightliner when not qualified to do so in violation of 49 CFR §391.11;
- (aaa) Failing to have the knowledge and skills necessary to operate the Freightliner safely in violation of 49 CFR §383.110; 49 CFR §383.111(a), (b), (c); and 49 CFR §383.113;
- (bbb) Failing to have an adequate brake system on the Freightliner in violation of 49 C.F.R. §393.40, §393.47, §393.48 and §393.52-55;
- (ccc) Failing to properly maintain and inspect the tractor trailer to ensure it was in a safe operating condition in violation of 49 CFR §392.7 and 396.13;
- (ddd) Driving while distracted;
- (eee) Failing to properly inspect the freightliner to make sure that all parts, including the brakes were in good working order pursuant to 49 C.F.R. §392.7 and applicable law;
- (fff) Failing to take the necessary rest stops and abide by the hours of service requirements in violation of 49 C.F.R. §395.1, et seq.;

- (ggg) Failing to properly restrain himself and use his seatbelt in violation of 49 C.F.R. §392.16;
- (hhh) Operating the vehicle while ill or in a condition wherein he could not safely operate the vehicle in violation of 49 C.F.R. §392.3 and applicable law;
- (iii) Operating a vehicle when not physically qualified to do so in violation of 49 C.F.R. §391.41.

62. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Juan Rivera, either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

63. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Juan Rivera and/or his agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Juan Rivera, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and

costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT VIII
MICHAELANN K. MOSER V. JUAN RIVERA
NEGLIGENCE

64. Paragraphs 1 through 63 hereof are incorporated herein by reference as if fully set forth.

65. In addition to being vicariously liable for the acts, commissions or omissions of his employee, servant, workman, agent, contractor and/or apparent agent, Defendant, Juan Rivera, either individually and/or jointly and severally, was also negligent, reckless and careless as follows:

- (a) Failing to properly train his employees, servants, workmen, agents, contractors and/or apparent agents in the operation of its vehicles;
- (b) Failing to provide his employees, servants, workmen, agents, contractors and/or apparent agents with proper directions before allowing them to operate its vehicles;
- (c) Failing to ensure that his employees, servants, workmen, agents, contractors and/or apparent agents are familiar with the roadways and route of travel before allowing them to operate its vehicles;

- (d) Failing to properly supervise or control his employees, servants, workmen, agents, contractors and/or apparent agents while they are operating its vehicles;
- (e) Hiring and/or retaining employees, servants, workmen, agents, contractors and/or apparent agents who may be unfit or incompetent to operate its vehicles;
- (f) Failing to have in place proper procedures, rules, regulations, protocols or safety measures to ensure that other motorists are not endangered by the operation of his vehicles by its employees, servants, workmen, agents, contractors and/or apparent agents;
- (g) Sending out his employees, servants, workmen, agents, contractors and/or apparent agents for an errand or job without proper instructions, directions and guidance;
- (h) Failing to take proper precautions to protect Plaintiff and other lawful users of the roadway from the negligent and careless actions of his employees, servants, workmen, agents, contractors and/or apparent agents;
- (i) Allowing an employee, servant, workman, agent, contractor and/or apparent agent to drive his vehicle who is incompetent to do so due to lack of training, licensing and/or prior unsafe driving;
- (j) Failing to use a high degree of care as a commercial carrier in the operation of his vehicle;
- (k) Failing to enforce his employee manuals and/or training procedures;
- (l) Failing to have an adequate or properly maintained brake system on the Freightliner in violation of 49

C.F.R. §393.40; 49 C.F.R. §393.47; 49 C.F.R. §393.48, 49 C.F.R. §393.52-55; 75 Pa. C.S.A. §4502; and 75 Pa. C.S.A. §4107;

- (m) Having commercial vehicle operators who do not have the required knowledge or skill to safely operate his vehicles in violation of 49 C.F.R. §383.111-383.13;
- (n) Allowing a driver to operate his vehicle who is not physically qualified to do so in violation of 49 C.F.R. §391.41 and applicable law;
- (o) Failing to enforce both the written and unwritten policies of Juan Rivera;
- (p) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while texting in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.80;
- (q) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a hand-held mobile telephone in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.82;
- (r) Allowing his employee, servant, workman and/or agent to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (s) Failing to instruct his employee, servant, workman and/or agent to not leave the driver's seat while the vehicle was moving;
- (t) Allowing his employee, servant, workman and/or agent to recklessly drive its vehicle;

- (u) Allowing his employee, servant, workman and/or agent to operate its vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa. C.S. §3714 and applicable law;
- (v) Allowing his employee, servant, workman and/or agent to operate its vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa. C.S.A. §3736 and applicable law;
- (w) Allowing an employee, servant, workman and/or agent to text while driving in violation of 75 Pa. C.S.A. §1621 and applicable law;
- (x) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a handheld mobile telephone in violation of 75 Pa. C.S.A. §1622 and applicable law;
- (y) Failing to instruct his employee, servant, workman and/or agent to not attempt to relieve his bowels and/or bladder while operating its vehicle;
- (z) Allowing his employee, servant, workman and/or agent to operate its vehicle unsafely under hazardous conditions in violation of 49 C.F.R. §392.14;
- (aa) Allowing his employee, servant, workman and/or agent to operate its vehicle while distracted;
- (bb) Failing to instruct his employee, servant, workman and/or agent to not operate the vehicle while distracted;
- (cc) Allowing its employee, servant, workman and/or agent to operate its vehicle without properly restraining himself and not using his seatbelt in violation of 49 C.F.R. §392.16;

- (dd) Failing to ensure that his employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the written and unwritten policies of Juan Rivera;
- (ee) Failing to ensure that his management personnel and drivers were aware of the requirements and the dictates of the Federal Motor Carrier Safety Regulations and the Pennsylvania Motor Vehicle Code;
- (ff) Failing to ensure that his employees, servants, workmen, agents, contractors and/or apparent agents complied with the provisions of both the Pennsylvania Motor Vehicle Code and the Federal Motor Carrier Safety Regulations;
- (gg) Failing to ensure that his employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the rules, laws and regulations pertaining to and governing the operation of commercial vehicles;
- (hh) Negligently entrusting a motor vehicle to an individual who had not been properly trained in the operation of its motor vehicle;
- (ii) Recklessly entrusting a motor vehicle to an individual who was unfit to operate the vehicle;
- (jj) Failing to properly inspect and maintain its vehicles in violation of 49 C.F.R. §392.7, §396.3 and §396.17;
- (kk) Allowing his drivers to violate hours of service requirements in violation of 49 C.F.R. §395.1, et seq.
- (ll) Allowing his driver to operate an out of service vehicle.

66. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Juan Rivera, either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

67. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Juan Rivera and/or his agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Juan Rivera, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT IX
MICHAELANN K. MOSER V. OMAR A. RIVERA
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR/AGENCY

68. Paragraphs 1 through 67 hereof are incorporated herein by reference as if fully set forth.

69. At all times relevant hereto, Decedent Medina, was an employee, servant, workman, agent, contractor and/or apparent agent of Defendant, Omar A. Rivera, and was acting within the scope of his employment with Defendant, Omar A. Rivera, either individually and/or jointly and severally, is therefore vicariously liable for his acts, commissions or omissions as though it performed the acts, commissions or omissions itself and is subject to the doctrine of respondeat superior.

70. Defendant, Omar A. Rivera is vicariously liable for Decedent's actions and/or omissions as follows:

- (a) Tailgating the vehicles in front of him;
- (b) Failing to observe Plaintiff's vehicle and other vehicles on the roadway;
- (c) Following too closely to Sean Kane's vehicle in violation of 75 Pa.C.S.A. §3310 and applicable law;
- (d) Failing to obey traffic control devices in violation of 75 Pa. C.S.A. §3111 and applicable law;

- (e) Following too closely to Plaintiff's vehicle in violation of 75 Pa. C.S.A. §3310 and applicable law;
- (f) Failing to drive within a single lane in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (g) Moving the vehicle he was operating from his lane of travel when not safe to do so in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (h) Failing to slow or stop the vehicle he was operating so as to avoid a rear-end collision;
- (i) Failing to maintain a proper speed and stop the vehicle he was operating within the assured clear distance ahead in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (j) Driving at a speed greater than is reasonable and prudent under the conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (k) Driving at an unsafe speed with regard to the actual and potential hazards then existing in violation of 75 Pa.C.S. §3361 and applicable law;
- (l) Driving at an unsafe speed when special hazards exist with respect to traffic and highway conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (m) Failing to apply the brakes to the vehicle he was operating or take other evasive action to avoid the collision with the vehicles in front of him;

- (n) Failing to maintain adequate control of the vehicle he was operating in order to avoid a collision;
- (o) Failing to give warning of his impending collision with the vehicles in front of him;
- (p) Operating his vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa.C.S.A. §3714 and applicable law;
- (q) Operating his vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa.C.S.A. §3736 and applicable law;
- (r) Failing to keep his vehicle under proper and adequate control so as not to expose other users of the roadway to an unreasonable risk of harm;
- (s) Operating his vehicle too fast for the conditions existing at the aforesaid time and place in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (t) Failing to keep alert and maintain a proper lookout for the presence of other motor vehicles on the streets and highways;
- (u) Exceeding the applicable maximum speed limit in violation of 75 Pa.C.S.A. §3362 and applicable law;
- (v) Failing to heed and take precaution because of high volume traffic conditions;
- (w) In operating the vehicle so as to create a dangerous situation for other vehicles on the roadway;

- (x) Operating his vehicle while distracted;
- (y) Failing to maintain a safe following distance;
- (z) Failing to observe stopped traffic;
- (aa) Rearending the vehicle directly in front of him;
- (bb) Recklessly operating his vehicle;
- (cc) Failing to stay alert to traffic patterns;
- (dd) Failing to slow or stop his vehicle due to traffic conditions;
- (ee) Failing to keep his eyes on the roadway;
- (ff) Otherwise operating his vehicle at an unsafe speed and in a careless and negligent manner;
- (gg) Failing to look far enough ahead for stopped or slowing traffic;
- (hh) Failing to steer away from stopped or slowing traffic;
- (ii) Failing to be attentive to safely operate his vehicle;
- (jj) Failing to properly scan the roadway ahead;
- (kk) Operating a motor vehicle inattentively;
- (ll) Failing to properly use his brakes;
- (mm) Failing to have an adequate braking system in violation of 75 Pa. C.S. §4502 and applicable law;

- (nn) Operating his vehicle while using an interactive wireless communications device in violation of 75 Pa. C.S.A. §102 and 3316 and applicable law;
- (oo) Texting while driving in violation of 75 Pa. C.S.A. §1621 and 49 C.F.R. 392.80 and applicable law;
- (pp) Operating his vehicle while using a handheld mobile telephone in violation of 75 Pa. C.S. §1622 and 49 C.F.R. 392.82 and applicable law;
- (qq) Failing to comply with commercial driver requirements in violation of §1601, et seq. and applicable law;
- (rr) Failing to have an adequate brake system in violation of 75 Pa. C.S.A. §4502 and applicable law;
- (ss) Violating equipment standards in violation of 75 Pa. C.S.A. §4107 and applicable law;
- (tt) Attempting to relieve his bladder and/or bowels while driving;
- (uu) Attempting to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (vv) In failing to operate his vehicle with a higher standard of care as required by a commercial driver;
- (ww) Operating his vehicle at an unsafe speed in violation of Part 392.6 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations;
- (xx) Failing to comply with the operating rules of Pennsylvania or of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations in violation of 49 CFR §392.2;

- (yy) Operating his vehicle unsafely under hazardous conditions in violation of 49 CFR §392.14;
- (zz) Driving the Freightliner when not qualified to do so in violation of 49 CFR §391.11;
- (aaa) Failing to have the knowledge and skills necessary to operate the Freightliner safely in violation of 49 CFR §383.110; 49 CFR §383.111(a), (b), (c); and 49 CFR §383.113;
- (bbb) Failing to have an adequate brake system on the Freightliner in violation of 49 C.F.R. §393.40, §393.47, §393.48 and §393.52-55;
- (ccc) Failing to properly maintain and inspect the tractor trailer to ensure it was in a safe operating condition in violation of 49 CFR §392.7 and 396.13;
- (ddd) Driving while distracted;
- (eee) Failing to properly inspect the freightliner to make sure that all parts, including the brakes were in good working order pursuant to 49 C.F.R. §392.7 and applicable law;
- (fff) Failing to take the necessary rest stops and abide by the hours of service requirements in violation of 49 C.F.R. §395.1, et seq.;
- (ggg) Failing to properly restrain himself and use his seatbelt in violation of 49 C.F.R. §392.16;
- (hhh) Operating the vehicle while ill or in a condition wherein he could not safely operate the vehicle in violation of 49 C.F.R. §392.3 and applicable law;
- (iii) Operating a vehicle when not physically qualified to do so in violation of 49 C.F.R. §391.41.

71. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Omar A. Rivera, either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

72. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Omar A. Rivera and/or his agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Omar A. Rivera, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT X
MICHAELANN K. MOSER V. OMAR A. RIVERA
NEGLIGENCE

73. Paragraphs 1 through 72 hereof are incorporated herein by reference as if fully set forth.

74. In addition to being vicariously liable for the acts, commissions or omissions of his employee, servant, workman, agent, contractor and/or apparent agent, Defendant, Omar A. Rivera, either individually and/or jointly and severally, was also negligent, reckless and careless as follows:

- (a) Failing to properly train his employees, servants, workmen, agents, contractors and/or apparent agents in the operation of its vehicles;
- (b) Failing to provide his employees, servants, workmen, agents, contractors and/or apparent agents with proper directions before allowing them to operate its vehicles;
- (c) Failing to ensure that his employees, servants, workmen, agents, contractors and/or apparent agents are familiar with the roadways and route of travel before allowing them to operate its vehicles;
- (d) Failing to properly supervise or control his employees, servants, workmen, agents, contractors and/or apparent agents while they are operating its vehicles;

- (e) Hiring and/or retaining employees, servants, workmen, agents, contractors and/or apparent agents who may be unfit or incompetent to operate its vehicles;
- (f) Failing to have in place proper procedures, rules, regulations, protocols or safety measures to ensure that other motorists are not endangered by the operation of his vehicles by its employees, servants, workmen, agents, contractors and/or apparent agents;
- (g) Sending out his employees, servants, workmen, agents, contractors and/or apparent agents for an errand or job without proper instructions, directions and guidance;
- (h) Failing to take proper precautions to protect Plaintiff and other lawful users of the roadway from the negligent and careless actions of his employees, servants, workmen, agents, contractors and/or apparent agents;
- (i) Allowing an employee, servant, workman, agent, contractor and/or apparent agent to drive his vehicle who is incompetent to do so due to lack of training, licensing and/or prior unsafe driving;
- (j) Failing to use a high degree of care as a commercial carrier in the operation of his vehicle;
- (k) Failing to enforce his employee manuals and/or training procedures;
- (l) Failing to have an adequate or properly maintained brake system on the Freightliner in violation of 49 C.F.R. §393.40; 49 C.F.R. §393.47; 49 C.F.R. §393.48, 49 C.F.R. §393.52-55; 75 Pa. C.S.A. §4502; and 75 Pa. C.S.A. §4107;

- (m) Having commercial vehicle operators who do not have the required knowledge or skill to safely operate his vehicles in violation of 49 C.F.R. §383.111-383.13;
- (n) Allowing a driver to operate his vehicle who is not physically qualified to do so in violation of 49 C.F.R. §391.41 and applicable law;
- (o) Failing to enforce both the written and unwritten policies of Omar A. Rivera;
- (p) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while texting in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.80;
- (q) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a hand-held mobile telephone in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.82;
- (r) Allowing his employee, servant, workman and/or agent to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (s) Failing to instruct his employee, servant, workman and/or agent to not leave the driver's seat while the vehicle was moving;
- (t) Allowing his employee, servant, workman and/or agent to recklessly drive its vehicle;
- (u) Allowing his employee, servant, workman and/or agent to operate its vehicle in careless disregard for the

safety of persons and/or property in violation of 75 Pa. C.S. §3714 and applicable law;

- (v) Allowing his employee, servant, workman and/or agent to operate its vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa. C.S.A. §3736 and applicable law;
- (w) Allowing an employee, servant, workman and/or agent to text while driving in violation of 75 Pa. C.S.A. §1621 and applicable law;
- (x) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a handheld mobile telephone in violation of 75 Pa. C.S.A. §1622 and applicable law;
- (y) Failing to instruct his employee, servant, workman and/or agent to not attempt to relieve his bowels and/or bladder while operating its vehicle;
- (z) Allowing his employee, servant, workman and/or agent to operate its vehicle unsafely under hazardous conditions in violation of 49 C.F.R. §392.14;
- (aa) Allowing his employee, servant, workman and/or agent to operate its vehicle while distracted;
- (bb) Failing to instruct his employee, servant, workman and/or agent to not operate the vehicle while distracted;
- (cc) Allowing its employee, servant, workman and/or agent to operate its vehicle without properly restraining himself and not using his seatbelt in violation of 49 C.F.R. §392.16;
- (dd) Failing to ensure that his employees, servants, workmen, agents, contractors and/or apparent agents

were aware of and complied with the written and unwritten policies of Omar A. Rivera;

- (ee) Failing to ensure that his management personnel and drivers were aware of the requirements and the dictates of the Federal Motor Carrier Safety Regulations and the Pennsylvania Motor Vehicle Code;
- (ff) Failing to ensure that his employees, servants, workmen, agents, contractors and/or apparent agents complied with the provisions of both the Pennsylvania Motor Vehicle Code and the Federal Motor Carrier Safety Regulations;
- (gg) Failing to ensure that his employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the rules, laws and regulations pertaining to and governing the operation of commercial vehicles;
- (hh) Negligently entrusting a motor vehicle to an individual who had not been properly trained in the operation of its motor vehicle;
- (ii) Recklessly entrusting a motor vehicle to an individual who was unfit to operate the vehicle;
- (jj) Failing to properly inspect and maintain its vehicles in violation of 49 C.F.R. §392.7, §396.3 and §396.17;
- (kk) Allowing his drivers to violate hours of service requirements in violation of 49 C.F.R. §395.1, et seq.
- (ll) Allowing his driver to operate an out of service vehicle.

75. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Omar A. Rivera,

either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

76. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Omar A. Rivera and/or his agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Omar A. Rivera, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XI
MICHAELANN K. MOSER V. ROBERTO PEREZ
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR/AGENCY

77. Paragraphs 1 through 76 hereof are incorporated herein by reference as if fully set forth.

78. At all times relevant hereto, Decedent Medina, was an employee, servant, workman, agent, contractor and/or apparent agent of Defendant, Roberto Perez, and was acting within the scope of his employment with Defendant, Roberto Perez either individually and/or jointly and severally, is therefore vicariously liable for his acts, commissions or omissions as though it performed the acts, commissions or omissions itself and is subject to the doctrine of respondeat superior.

79. Defendant, Roberto Perez is vicariously liable for Decedent's actions and/or omissions as follows:

- (a) Tailgating the vehicles in front of him;
- (b) Failing to observe Plaintiff's vehicle and other vehicles on the roadway;
- (c) Following too closely to Sean Kane's vehicle in violation of 75 Pa.C.S.A. §3310 and applicable law;

- (d) Failing to obey traffic control devices in violation of 75 Pa. C.S.A. §3111 and applicable law;
- (e) Following too closely to Plaintiff's vehicle in violation of 75 Pa. C.S.A. §3310 and applicable law;
- (f) Failing to drive within a single lane in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (g) Moving the vehicle he was operating from his lane of travel when not safe to do so in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (h) Failing to slow or stop the vehicle he was operating so as to avoid a rear-end collision;
- (i) Failing to maintain a proper speed and stop the vehicle he was operating within the assured clear distance ahead in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (j) Driving at a speed greater than is reasonable and prudent under the conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (k) Driving at an unsafe speed with regard to the actual and potential hazards then existing in violation of 75 Pa.C.S. §3361 and applicable law;
- (l) Driving at an unsafe speed when special hazards exist with respect to traffic and highway conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (m) Failing to apply the brakes to the vehicle he was operating or take other evasive action to avoid the collision with the vehicles in front of him;

- (n) Failing to maintain adequate control of the vehicle he was operating in order to avoid a collision;
- (o) Failing to give warning of his impending collision with the vehicles in front of him;
- (p) Operating his vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa.C.S.A. §3714 and applicable law;
- (q) Operating his vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa.C.S.A. §3736 and applicable law;
- (r) Failing to keep his vehicle under proper and adequate control so as not to expose other users of the roadway to an unreasonable risk of harm;
- (s) Operating his vehicle too fast for the conditions existing at the aforesaid time and place in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (t) Failing to keep alert and maintain a proper lookout for the presence of other motor vehicles on the streets and highways;
- (u) Exceeding the applicable maximum speed limit in violation of 75 Pa.C.S.A. §3362 and applicable law;
- (v) Failing to heed and take precaution because of high volume traffic conditions;
- (w) In operating the vehicle so as to create a dangerous situation for other vehicles on the roadway;

- (x) Operating his vehicle while distracted;
- (y) Failing to maintain a safe following distance;
- (z) Failing to observe stopped traffic;
- (aa) Rearending the vehicle directly in front of him;
- (bb) Recklessly operating his vehicle;
- (cc) Failing to stay alert to traffic patterns;
- (dd) Failing to slow or stop his vehicle due to traffic conditions;
- (ee) Failing to keep his eyes on the roadway;
- (ff) Otherwise operating his vehicle at an unsafe speed and in a careless and negligent manner;
- (gg) Failing to look far enough ahead for stopped or slowing traffic;
- (hh) Failing to steer away from stopped or slowing traffic;
- (ii) Failing to be attentive to safely operate his vehicle;
- (jj) Failing to properly scan the roadway ahead;
- (kk) Operating a motor vehicle inattentively;
- (ll) Failing to properly use his brakes;
- (mm) Failing to have an adequate braking system in violation of 75 Pa. C.S. §4502 and applicable law;

- (nn) Operating his vehicle while using an interactive wireless communications device in violation of 75 Pa. C.S.A. §102 and 3316 and applicable law;
- (oo) Texting while driving in violation of 75 Pa. C.S.A. §1621 and 49 C.F.R. 392.80 and applicable law;
- (pp) Operating his vehicle while using a handheld mobile telephone in violation of 75 Pa. C.S. §1622 and 49 C.F.R. 392.82 and applicable law;
- (qq) Failing to comply with commercial driver requirements in violation of §1601, et seq. and applicable law;
- (rr) Failing to have an adequate brake system in violation of 75 Pa. C.S.A. §4502 and applicable law;
- (ss) Violating equipment standards in violation of 75 Pa. C.S.A. §4107 and applicable law;
- (tt) Attempting to relieve his bladder and/or bowels while driving;
- (uu) Attempting to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (vv) In failing to operate his vehicle with a higher standard of care as required by a commercial driver;
- (ww) Operating his vehicle at an unsafe speed in violation of Part 392.6 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations;
- (xx) Failing to comply with the operating rules of Pennsylvania or of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations in violation of 49 CFR §392.2;

- (yy) Operating his vehicle unsafely under hazardous conditions in violation of 49 CFR §392.14;
- (zz) Driving the Freightliner when not qualified to do so in violation of 49 CFR §391.11;
- (aaa) Failing to have the knowledge and skills necessary to operate the Freightliner safely in violation of 49 CFR §383.110; 49 CFR §383.111(a), (b), (c); and 49 CFR §383.113;
- (bbb) Failing to have an adequate brake system on the Freightliner in violation of 49 C.F.R. §393.40, §393.47, §393.48 and §393.52-55;
- (ccc) Failing to properly maintain and inspect the tractor trailer to ensure it was in a safe operating condition in violation of 49 CFR §392.7 and 396.13;
- (ddd) Driving while distracted;
- (eee) Failing to properly inspect the freightliner to make sure that all parts, including the brakes were in good working order pursuant to 49 C.F.R. §392.7 and applicable law;
- (fff) Failing to take the necessary rest stops and abide by the hours of service requirements in violation of 49 C.F.R. §395.1, et seq.;
- (ggg) Failing to properly restrain himself and use his seatbelt in violation of 49 C.F.R. §392.16;
- (hhh) Operating the vehicle while ill or in a condition wherein he could not safely operate the vehicle in violation of 49 C.F.R. §392.3 and applicable law;
- (iii) Operating a vehicle when not physically qualified to do so in violation of 49 C.F.R. §391.41.

80. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Roberto Perez, either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

81. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Roberto Perez and/or his agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Roberto Perez, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XII

MICHAELANN K. MOSER V. ROBERTO PEREZ
NEGLIGENCE

82. Paragraphs 1 through 81 hereof are incorporated herein by reference as if fully set forth.

83. In addition to being vicariously liable for the acts, commissions or omissions of its employee, servant, workman, agent, contractor and/or apparent agent, Defendant, Roberto Perez, either individually and/or jointly and severally, was also negligent, reckless and careless as follows:

- (a) Failing to properly train its employees, servants, workmen, agents, contractors and/or apparent agents in the operation of its vehicles;
- (b) Failing to provide its employees, servants, workmen, agents, contractors and/or apparent agents with proper directions before allowing them to operate its vehicles;
- (c) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents are familiar with the roadways and route of travel before allowing them to operate its vehicles;
- (d) Failing to properly supervise or control its employees, servants, workmen, agents, contractors and/or apparent agents while they are operating its vehicles;

- (e) Hiring and/or retaining employees, servants, workmen, agents, contractors and/or apparent agents who may be unfit or incompetent to operate its vehicles;
- (f) Failing to have in place proper procedures, rules, regulations, protocols or safety measures to ensure that other motorists are not endangered by the operation of its vehicles by its employees, servants, workmen, agents, contractors and/or apparent agents;
- (g) Sending out its employees, servants, workmen, agents, contractors and/or apparent agents for an errand or job without proper instructions, directions and guidance;
- (h) Failing to take proper precautions to protect Plaintiff and other lawful users of the roadway from the negligent and careless actions of its employees, servants, workmen, agents, contractors and/or apparent agents;
- (i) Allowing an employee, servant, workman, agent, contractor and/or apparent agent to drive its vehicle who is incompetent to do so due to lack of training, licensing and/or prior unsafe driving;
- (j) Failing to use a high degree of care as a commercial carrier in the operation of its vehicle;
- (k) Failing to enforce its employee manuals and/or training procedures;
- (l) Failing to have an adequate or properly maintained brake system on the Freightliner in violation of 49 C.F.R. §393.40; 49 C.F.R. §393.47; 49 C.F.R. §393.48, 49 C.F.R. §393.52-55; 75 Pa. C.S.A. §4502; and 75 Pa. C.S.A. §4107;

- (m) Having commercial vehicle operators who do not have the required knowledge or skill to safely operate its vehicles in violation of 49 C.F.R. §383.111-383.13;
- (n) Allowing a driver to operate its vehicle who is not physically qualified to do so in violation of 49 C.F.R. §391.41 and applicable law;
- (o) Failing to enforce both the written and unwritten policies of Roberto Perez;
- (p) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while texting in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.80;
- (q) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a hand-held mobile telephone in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.82;
- (r) Allowing its employee, servant, workman and/or agent to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (s) Failing to instruct their employee, servant, workman and/or agent to not leave the driver's seat while the vehicle was moving;
- (t) Allowing its employee, servant, workman and/or agent to recklessly drive its vehicle;
- (u) Allowing its employee, servant, workman and/or agent to operate its vehicle in careless disregard for the

safety of persons and/or property in violation of 75 Pa. C.S. §3714 and applicable law;

- (v) Allowing its employee, servant, workman and/or agent to operate its vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa. C.S.A. §3736 and applicable law;
- (w) Allowing an employee, servant, workman and/or agent to text while driving in violation of 75 Pa. C.S.A. §1621 and applicable law;
- (x) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a handheld mobile telephone in violation of 75 Pa. C.S.A. §1622 and applicable law;
- (y) Failing to instruct their employee, servant, workman and/or agent to not attempt to relieve his bowels and/or bladder while operating its vehicle;
- (z) Allowing its employee, servant, workman and/or agent to operate its vehicle unsafely under hazardous conditions in violation of 49 C.F.R. §392.14;
- (aa) Allowing its employee, servant, workman and/or agent to operate its vehicle while distracted;
- (bb) Failing to instruct its employee, servant, workman and/or agent to not operate the vehicle while distracted;
- (cc) Allowing its employee, servant, workman and/or agent to operate its vehicle without properly restraining himself and not using his seatbelt in violation of 49 C.F.R. §392.16;
- (dd) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents

were aware of and complied with the written and unwritten policies of Roberto Perez;

- (ee) Failing to ensure that its management personnel and drivers were aware of the requirements and the dictates of the Federal Motor Carrier Safety Regulations and the Pennsylvania Motor Vehicle Code;
- (ff) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents complied with the provisions of both the Pennsylvania Motor Vehicle Code and the Federal Motor Carrier Safety Regulations;
- (gg) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the rules, laws and regulations pertaining to and governing the operation of commercial vehicles;
- (hh) Negligently entrusting a motor vehicle to an individual who had not been properly trained in the operation of its motor vehicle;
- (ii) Recklessly entrusting a motor vehicle to an individual who was unfit to operate the vehicle;
- (jj) Failing to properly inspect and maintain its vehicles in violation of 49 C.F.R. §392.7, §396.3 and §396.17;
- (kk) Allowing its drivers to violate hours of service requirements in violation of 49 C.F.R. §395.1, et seq.
- (ll) Allowing its driver to operate an out of service vehicle.

84. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Roberto Perez, either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

85. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Roberto Perez and/or their agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Roberto Perez, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XIII

MICHAELANN K. MOSER V. ROBERTO PEREZ TRUCKING
VICARIOUS LIABILITY/RESPONDEAT SUPERIOR/AGENCY

86. Paragraphs 1 through 85 hereof are incorporated herein by reference as if fully set forth.

87. At all times relevant hereto, Decedent Medina, was an employee, servant, workman, agent, contractor and/or apparent agent of Defendant, Roberto Perez Trucking, and was acting within the scope of his employment with Defendant, Roberto Perez Trucking either individually and/or jointly and severally, is therefore vicariously liable for his acts, commissions or omissions as though it performed the acts, commissions or omissions itself and is subject to the doctrine of respondeat superior.

88. Defendant, Roberto Perez Trucking is vicariously liable for Decedent's actions and/or omissions as follows:

- (a) Tailgating the vehicles in front of him;
- (b) Failing to observe Plaintiff's vehicle and other vehicles on the roadway;
- (c) Following too closely to Sean Kane's vehicle in violation of 75 Pa.C.S.A. §3310 and applicable law;

- (d) Failing to obey traffic control devices in violation of 75 Pa. C.S.A. §3111 and applicable law;
- (e) Following too closely to Plaintiff's vehicle in violation of 75 Pa. C.S.A. §3310 and applicable law;
- (f) Failing to drive within a single lane in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (g) Moving the vehicle he was operating from his lane of travel when not safe to do so in violation of 75 Pa. C.S.A. §3309 and applicable law;
- (h) Failing to slow or stop the vehicle he was operating so as to avoid a rear-end collision;
- (i) Failing to maintain a proper speed and stop the vehicle he was operating within the assured clear distance ahead in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (j) Driving at a speed greater than is reasonable and prudent under the conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (k) Driving at an unsafe speed with regard to the actual and potential hazards then existing in violation of 75 Pa.C.S. §3361 and applicable law;
- (l) Driving at an unsafe speed when special hazards exist with respect to traffic and highway conditions in violation of 75 Pa.C.S. §3361 and applicable law;
- (m) Failing to apply the brakes to the vehicle he was operating or take other evasive action to avoid the collision with the vehicles in front of him;

- (n) Failing to maintain adequate control of the vehicle he was operating in order to avoid a collision;
- (o) Failing to give warning of his impending collision with the vehicles in front of him;
- (p) Operating his vehicle in careless disregard for the safety of persons and/or property in violation of 75 Pa.C.S.A. §3714 and applicable law;
- (q) Operating his vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa.C.S.A. §3736 and applicable law;
- (r) Failing to keep his vehicle under proper and adequate control so as not to expose other users of the roadway to an unreasonable risk of harm;
- (s) Operating his vehicle too fast for the conditions existing at the aforesaid time and place in violation of 75 Pa.C.S.A. §3361 and applicable law;
- (t) Failing to keep alert and maintain a proper lookout for the presence of other motor vehicles on the streets and highways;
- (u) Exceeding the applicable maximum speed limit in violation of 75 Pa.C.S.A. §3362 and applicable law;
- (v) Failing to heed and take precaution because of high volume traffic conditions;
- (w) In operating the vehicle so as to create a dangerous situation for other vehicles on the roadway;

- (x) Operating his vehicle while distracted;
- (y) Failing to maintain a safe following distance;
- (z) Failing to observe stopped traffic;
- (aa) Rearending the vehicle directly in front of him;
- (bb) Recklessly operating his vehicle;
- (cc) Failing to stay alert to traffic patterns;
- (dd) Failing to slow or stop his vehicle due to traffic conditions;
- (ee) Failing to keep his eyes on the roadway;
- (ff) Otherwise operating his vehicle at an unsafe speed and in a careless and negligent manner;
- (gg) Failing to look far enough ahead for stopped or slowing traffic;
- (hh) Failing to steer away from stopped or slowing traffic;
- (ii) Failing to be attentive to safely operate his vehicle;
- (jj) Failing to properly scan the roadway ahead;
- (kk) Operating a motor vehicle inattentively;
- (ll) Failing to properly use his brakes;
- (mm) Failing to have an adequate braking system in violation of 75 Pa. C.S. §4502 and applicable law;

- (nn) Operating his vehicle while using an interactive wireless communications device in violation of 75 Pa. C.S.A. §102 and 3316 and applicable law;
- (oo) Texting while driving in violation of 75 Pa. C.S.A. §1621 and 49 C.F.R. 392.80 and applicable law;
- (pp) Operating his vehicle while using a handheld mobile telephone in violation of 75 Pa. C.S. §1622 and 49 C.F.R. 392.82 and applicable law;
- (qq) Failing to comply with commercial driver requirements in violation of §1601, et seq. and applicable law;
- (rr) Failing to have an adequate brake system in violation of 75 Pa. C.S.A. §4502 and applicable law;
- (ss) Violating equipment standards in violation of 75 Pa. C.S.A. §4107 and applicable law;
- (tt) Attempting to relieve his bladder and/or bowels while driving;
- (uu) Attempting to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (vv) In failing to operate his vehicle with a higher standard of care as required by a commercial driver;
- (ww) Operating his vehicle at an unsafe speed in violation of Part 392.6 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations;
- (xx) Failing to comply with the operating rules of Pennsylvania or of the U.S. Department of Transportation Federal Motor Carrier Safety Regulations in violation of 49 CFR §392.2;

- (yy) Operating his vehicle unsafely under hazardous conditions in violation of 49 CFR §392.14;
- (zz) Driving the Freightliner when not qualified to do so in violation of 49 CFR §391.11;
- (aaa) Failing to have the knowledge and skills necessary to operate the Freightliner safely in violation of 49 CFR §383.110; 49 CFR §383.111(a), (b), (c); and 49 CFR §383.113;
- (bbb) Failing to have an adequate brake system on the Freightliner in violation of 49 C.F.R. §393.40, §393.47, §393.48 and §393.52-55;
- (ccc) Failing to properly maintain and inspect the tractor trailer to ensure it was in a safe operating condition in violation of 49 CFR §392.7 and 396.13;
- (ddd) Driving while distracted;
- (eee) Failing to properly inspect the freightliner to make sure that all parts, including the brakes were in good working order pursuant to 49 C.F.R. §392.7 and applicable law;
- (fff) Failing to take the necessary rest stops and abide by the hours of service requirements in violation of 49 C.F.R. §395.1, et seq.;
- (ggg) Failing to properly restrain himself and use his seatbelt in violation of 49 C.F.R. §392.16;
- (hhh) Operating the vehicle while ill or in a condition wherein he could not safely operate the vehicle in violation of 49 C.F.R. §392.3 and applicable law;
- (iii) Operating a vehicle when not physically qualified to do so in violation of 49 C.F.R. §391.41.

89. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Roberto Perez Trucking, either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages

90. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Roberto Perez Trucking and/or their agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Roberto Perez Trucking, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XIV
MICHAELANN K. MOSER V. ROBERTO PEREZ TRUCKING
NEGLIGENCE

91. Paragraphs 1 through 90 hereof are incorporated herein by reference as if fully set forth.

92. In addition to being vicariously liable for the acts, commissions or omissions of its employee, servant, workman, agent, contractor and/or apparent agent, Defendant, Roberto Perez Trucking, either individually and/or jointly and severally, was also negligent, reckless and careless as follows:

- (a) Failing to properly train its employees, servants, workmen, agents, contractors and/or apparent agents in the operation of its vehicles;
- (b) Failing to provide its employees, servants, workmen, agents, contractors and/or apparent agents with proper directions before allowing them to operate its vehicles;
- (c) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents are familiar with the roadways and route of travel before allowing them to operate its vehicles;
- (d) Failing to properly supervise or control its employees, servants, workmen, agents, contractors and/or apparent agents while they are operating its vehicles;

- (e) Hiring and/or retaining employees, servants, workmen, agents, contractors and/or apparent agents who may be unfit or incompetent to operate its vehicles;
- (f) Failing to have in place proper procedures, rules, regulations, protocols or safety measures to ensure that other motorists are not endangered by the operation of its vehicles by its employees, servants, workmen, agents, contractors and/or apparent agents;
- (g) Sending out its employees, servants, workmen, agents, contractors and/or apparent agents for an errand or job without proper instructions, directions and guidance;
- (h) Failing to take proper precautions to protect Plaintiff and other lawful users of the roadway from the negligent and careless actions of its employees, servants, workmen, agents, contractors and/or apparent agents;
- (i) Allowing an employee, servant, workman, agent, contractor and/or apparent agent to drive its vehicle who is incompetent to do so due to lack of training, licensing and/or prior unsafe driving;
- (j) Failing to use a high degree of care as a commercial carrier in the operation of its vehicle;
- (k) Failing to enforce its employee manuals and/or training procedures;
- (l) Failing to have an adequate or properly maintained brake system on the Freightliner in violation of 49 C.F.R. §393.40; 49 C.F.R. §393.47; 49 C.F.R. §393.48, 49 C.F.R. §393.52-55; 75 Pa. C.S.A. §4502; and 75 Pa. C.S.A. §4107;

- (m) Having commercial vehicle operators who do not have the required knowledge or skill to safely operate its vehicles in violation of 49 C.F.R. §383.111-383.13;
- (n) Allowing a driver to operate its vehicle who is not physically qualified to do so in violation of 49 C.F.R. §391.41 and applicable law;
- (o) Failing to enforce both the written and unwritten policies of Roberto Perez Trucking;
- (p) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while texting in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.80;
- (q) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a hand-held mobile telephone in violation of Part 392 of the U.S. Department of Transportation Federal Motor Carrier Safety Regulation, in particular 49 CFR §392.82;
- (r) Allowing its employee, servant, workman and/or agent to leave the driver's seat and move to the rear of the tractor while the vehicle was moving;
- (s) Failing to instruct their employee, servant, workman and/or agent to not leave the driver's seat while the vehicle was moving;
- (t) Allowing its employee, servant, workman and/or agent to recklessly drive its vehicle;
- (u) Allowing its employee, servant, workman and/or agent to operate its vehicle in careless disregard for the

safety of persons and/or property in violation of 75 Pa. C.S. §3714 and applicable law;

- (v) Allowing its employee, servant, workman and/or agent to operate its vehicle in a reckless, willful or wanton disregard for the safety of persons or property in violation of 75 Pa. C.S.A. §3736 and applicable law;
- (w) Allowing an employee, servant, workman and/or agent to text while driving in violation of 75 Pa. C.S.A. §1621 and applicable law;
- (x) Allowing an employee, servant, workman and/or agent to operate his/her/their tractor-trailer while using a handheld mobile telephone in violation of 75 Pa. C.S.A. §1622 and applicable law;
- (y) Failing to instruct their employee, servant, workman and/or agent to not attempt to relieve his bowels and/or bladder while operating its vehicle;
- (z) Allowing its employee, servant, workman and/or agent to operate its vehicle unsafely under hazardous conditions in violation of 49 C.F.R. §392.14;
- (aa) Allowing its employee, servant, workman and/or agent to operate its vehicle while distracted;
- (bb) Failing to instruct its employee, servant, workman and/or agent to not operate the vehicle while distracted;
- (cc) Allowing its employee, servant, workman and/or agent to operate its vehicle without properly restraining himself and not using his seatbelt in violation of 49 C.F.R. §392.16;
- (dd) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents

were aware of and complied with the written and unwritten policies of Roberto Perez Trucking;

- (ee) Failing to ensure that its management personnel and drivers were aware of the requirements and the dictates of the Federal Motor Carrier Safety Regulations and the Pennsylvania Motor Vehicle Code;
- (ff) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents complied with the provisions of both the Pennsylvania Motor Vehicle Code and the Federal Motor Carrier Safety Regulations;
- (gg) Failing to ensure that its employees, servants, workmen, agents, contractors and/or apparent agents were aware of and complied with the rules, laws and regulations pertaining to and governing the operation of commercial vehicles;
- (hh) Negligently entrusting a motor vehicle to an individual who had not been properly trained in the operation of its motor vehicle;
- (ii) Recklessly entrusting a motor vehicle to an individual who was unfit to operate the vehicle;
- (jj) Failing to properly inspect and maintain its vehicles in violation of 49 C.F.R. §392.7, §396.3 and §396.17;
- (kk) Allowing its drivers to violate hours of service requirements in violation of 49 C.F.R. §395.1, et seq.
- (ll) Allowing its driver to operate an out of service vehicle.

93. As a direct and proximate result of the collision and the negligent, careless and reckless conduct of Defendant, Roberto Perez Trucking, either individually and/or jointly and severally, Plaintiff, Michaelann K. Moser, sustained the aforesaid damages.

94. For the reckless disregard, wanton, willful and outrageous actions and/or omissions set forth above, Defendant, Roberto Perez Trucking and/or their agent, servant and/or employee, demonstrated an intentional, wanton and/or reckless indifference to risk of injury to Plaintiff, Michaelann K. Moser and others entitling Plaintiff to an award of punitive damages separate and over and above of any compensatory damages.

WHEREFORE, Plaintiff, Michaelann K. Moser, demands judgment in her favor and against the Defendant, Roberto Perez Trucking, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XV
RANDY L. MOSER V. FORZA TRANSPORTATION
SERVICES, INC.
LOSS OF CONSORTIUM

95. Paragraphs 1 through 94 hereof are incorporated herein by reference as if fully set forth.

96. During all relevant times Plaintiffs, Michaelann K. Moser and Randy L. Moser, were wife and husband, and solely as a result of the collision, the aforesaid negligence, recklessness and carelessness of Defendant, Forza Transportation Services, Inc., and as a result of the injuries to Plaintiff, Michaelann K. Moser, the Plaintiff, Randy L. Moser, has been deprived of the assistance, companionship, consortium and society of his wife and has lost her services to him which may continue indefinitely.

WHEREFORE, Plaintiff, Randy L. Moser, demands judgment in his favor and against Defendant, Forza Transportation Services, Inc., either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XVI
RANDY L. MOSER V. RIVERA LOGISTICS, INC.
LOSS OF CONSORTIUM

97. Paragraphs 1 through 96 hereof are incorporated herein by reference as if fully set forth.

98. During all relevant times Plaintiffs, Michaelann K. Moser and Randy L. Moser, were wife and husband, and solely as a result of the collision, the aforesaid negligence, recklessness and carelessness of Defendant, Rivera Logistics, Inc., and as a result of the injuries to Plaintiff, Michaelann K. Moser, the Plaintiff, Randy L. Moser, has been deprived of the assistance, companionship, consortium and society of his wife and has lost her services to her which may continue indefinitely.

WHEREFORE, Plaintiff, Randy L. Moser, demands judgment in his favor and against Defendant, Rivera Logistics, Inc., either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XVII
RANDY L. MOSER V. F&A EXPRESS, LLC
LOSS OF CONSORTIUM

99. Paragraphs 1 through 98 hereof are incorporated herein by reference as if fully set forth.

100. During all relevant times Plaintiffs, Michaelann K. Moser and Randy L. Moser, were wife and husband, and solely as a result of the collision, the aforesaid negligence, recklessness and carelessness of Defendant, F&A Express, LLC, and as a result of the injuries to Plaintiff, Michaelann K. Moser, the Plaintiff, Randy L. Moser, has been deprived of the assistance, companionship, consortium and society of his wife and has lost his services to her which may continue indefinitely.

WHEREFORE, Plaintiff, Randy L. Moser, demands judgment in his favor and against Defendant, F&A Express, LLC, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XVIII
RANDY L. MOSER V. JUAN RIVERA
LOSS OF CONSORTIUM

101. Paragraphs 1 through 100 hereof are incorporated herein by reference as if fully set forth.

102. During all relevant times Plaintiffs, Michaelann K. Moser and Randy L. Moser, were wife and husband, and solely as a result of the collision, the aforesaid negligence, recklessness and carelessness of Defendant, Juan Rivera, and as a result of the injuries to Plaintiff, Michaelann K. Moser, the Plaintiff, Randy L. Moser, has been deprived of the assistance, companionship, consortium and society of her husband and has lost his services to her which may continue indefinitely.

WHEREFORE, Plaintiff, Randy L. Moser, demands judgment in her favor and against Defendant, Juan Rivera, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XIX
RANDY L. MOSER V. OMAR A. RIVERA
LOSS OF CONSORTIUM

103. Paragraphs 1 through 102 hereof are incorporated herein by reference as if fully set forth.

104. During all relevant times Plaintiffs, Michaelann K. Moser and Randy L. Moser, were wife and husband, and solely as a result of the collision, the aforesaid negligence, recklessness and carelessness of Defendant, Omar A. Rivera, and as a result of the injuries to Plaintiff, Michaelann K. Moser, the Plaintiff, Randy L. Moser, has been deprived of the assistance, companionship, consortium and society of his wife and has lost his services to her which may continue indefinitely.

WHEREFORE, Plaintiff, Randy L. Moser, demands judgment in her favor and against Defendant, Omar A. Rivera, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

COUNT XX
RANDY L. MOSER V. ROBERTO PEREZ
LOSS OF CONSORTIUM

105. Paragraphs 1 through 104 hereof are incorporated herein by reference as if fully set forth.

106. During all relevant times Plaintiffs, Michaelann K. Moser and Randy L. Moser, were wife and husband, and solely as a result of the collision, the aforesaid negligence, recklessness and carelessness of Defendant, Roberto Perez, and as a result of the injuries to Plaintiff, Michaelann K. Moser, the Plaintiff, Randy L. Moser, has been deprived of the assistance, companionship, consortium and society of his wife and has lost his services to her which may continue indefinitely.

WHEREFORE, Plaintiff, Randy L. Moser, demands judgment in her favor and against Defendant, Roberto Perez, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

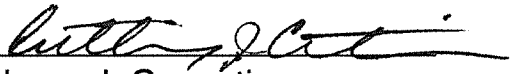
COUNT XXI
RANDY L. MOSER V. ROBERTO PEREZ TRUCKING
LOSS OF CONSORTIUM

107. Paragraphs 1 through 106 hereof are incorporated herein by reference as if fully set forth.

108. During all relevant times Plaintiffs, Michaelann K. Moser and Randy L. Moser, were wife and husband, and solely as a result of the collision, the aforesaid negligence, recklessness and carelessness of Defendant, Roberto Perez Trucking, and as a result of the injuries to Plaintiff, Michaelann K. Moser, the Plaintiff, Randy L. Moser, has been deprived of the assistance, companionship, consortium and society of his wife and has lost his services to her which may continue indefinitely.

WHEREFORE, Plaintiff, Randy L. Moser, demands judgment in her favor and against Defendant, Roberto Perez Trucking, either individually and/or jointly and severally, for the aforesaid damages which exceeds Seventy-Five Thousand Dollars (\$75,000.00), exclusive of interest and costs, plus damages for delay and/or punitive damages against Defendant as allowed by law.

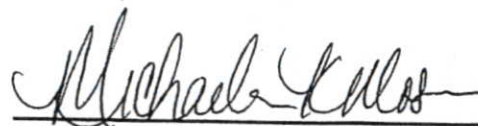
Date: August 9, 2017

By 
Anthony J. Cosentino
Attorney for Plaintiffs
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Verification

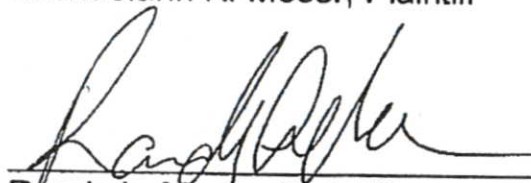
We, Michaelann K. Moser and Randy L. Moser, the plaintiffs herein, hereby affirm that the facts set forth in the foregoing Complaints based upon information which we have furnished to counsel, as well as information which has been gathered by counsel and/or by others acting on behalf of myself in preparation of this Complaint. The language of the Complaint is that of our counsel and not our own. We have read the Complaint and, to the extent that it is based upon information which we have given to counsel, it is true and correct to the best of our knowledge, information and belief. To the extent that the content of the Complaint is that of counsel, we have relied upon such counsel in making this verification. We hereby acknowledge that the facts set forth in the aforesaid Complaint are made subject to the penalties of 18 Pa.C.S. Section 4904, relating to unsworn falsification to authorities.

Date: August 9, 2017



Michaelann K. Moser, Plaintiff

Date: August 9, 2017



Randy L. Moser, Plaintiff